

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GEORGE HUMPHRYS, Individually
And On Behalf of All Others Similarly Situated,

Plaintiff,

v.

TD Ameritrade Holding Corporation, and TD
Ameritrade, Inc., f.k.a. TD Waterhouse Investor
Services, Inc.,

Defendants.

**REPLY IN SUPPORT OF THE MOTION OF JANET JONES, AS
TRUSTEE OF THE JONES LIVING TRUST DATED 1/14/2002,
MICHAEL JONES, AND MICHAEL MCKAY FOR APPOINTMENT AS
LEAD PLAINTIFF AND APPROVAL OF SELECTION OF COUNSEL**

Class members Janet Jones, as trustee of the Jones Living Trust Dated 1/14/2002, Michael Jones, and Michael McKay (collectively “Movants”), respectfully submit this reply in further support of their motion for appointment as Lead Plaintiff and approval of their selection of counsel. Movants also seek consolidation of a substantially similar action, *Silverstein v. TD Ameritrade Holding Corp., et al.*, which was recently transferred to this Court from United States District Court for the District of Nebraska.

On May 19, 2008, Movants filed a timely motion, pursuant to the Private Securities Litigation Reform Act, 15 U.S.C. § 78u-4(a)(3)(B), for their appointment as Lead Plaintiff and approval of their selection of counsel. *See* Docket Nos. 10-12. Movants demonstrated a \$3,300,000 financial interest in the outcome of the litigation. Class members Sheldon Silverstein and Stephen Stock (collectively, the “Silverstein Group”) filed a competing motion claiming a financial interest of \$425,000.

On June 6, 2008, Movants filed their response to the Silverstein Group’s motion for appointment as Lead Plaintiff. *See* Docket No. 30. In their response, Movants demonstrated that they have the largest financial interest in the relief sought and, therefore, were presumed to be the “most adequate plaintiff” to represent the Class. 15 U.S.C. § 78u-4(a)(3)(B)(iii). Movants also demonstrated that they satisfied the typicality and adequacy requirements for appointment as Lead Plaintiff, as set forth in 15 U.S.C. § 78u-4(a)(3)(B)(iii). The Silverstein Group did not file any response, and appears to have abandoned its motion.

Because Movants have satisfied all of the Lead Plaintiff requirements of the PSLRA and their motion is apparently no longer opposed, Movants respectfully request that this Court: (1) appoint Class members Janet Jones, as trustee of the Jones Living Trust Dated 1/14/2002, Michael Jones, and Michael McKay as Lead Plaintiff pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(i); and (2) approve their selection of counsel pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v).

Movants also seek to consolidate the *Humphrys* and *Silverstein* actions for all purposes.¹ The cases assert the same claims under the Securities Exchange Act of 1934 against the same defendants, arise out of the same course of conduct, and present common questions of law and fact. Accordingly, the Court should consolidate the *Humphrys* and *Silverstein* actions pursuant to Rule 42(a) of the Federal Rules of Civil Procedure.

DATED: June 16, 2008

Respectfully submitted,

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¹ Movants raise consolidation for the first time in this reply because the order transferring the *Silverstein* action to this Court was entered by the court in Nebraska on June 10, 2008, four days after Movants filed their response to the lead plaintiff motions.

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Proposed Liaison Counsel

CERTIFICATE OF SERVICE

I, Jonathan K. Levine, hereby certify that on June 16, 2008, I caused the following document(s) to be filed electronically with the United States District Court for the Southern District of New York through the Court's mandated ECF service:

- 1. REPLY IN SUPPORT OF THE MOTION OF JANET JONES, AS TRUSTEE OF THE JONES LIVING TRUST DATED 1/14/2002, MICHAEL JONES, AND MICHAEL MCKAY FOR APPOINTMENT AS LEAD PLAINTIFF AND APPROVAL OF SELECTION OF COUNSEL**

Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the document(s) upon confirmation of e-filing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of June, 2008 at San Francisco, California.

/s/ Jonathan K. Levine